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No. 660

In the Supreme Court of the United States

OCTOBER TERM, 1935

THE UNITED STATES OF AMERICA, APPELLANT

v.

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

STATEMENT AS TO JURISDICTION

In the Supreme Court of the United States

OCTOBER TERM, 1935

No. 660

THE UNITED STATES OF AMERICA, APPELLANT

v.

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY, appellee

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, the United States of America, appellant, submits herewith its statement showing the basis of the jurisdiction of this Court in the above-entitled cause:

A

STATUTES

The statutory jurisdiction of this Court to review by direct appeal the decree here complained

of is conferred by the Act of February 11, 1903, c. 544, Sec. 2, 32 Stat. 823, known as the Expediting Act (U. S. C., Title 49, Secs. 44 and 45), and by Section 238 of the Judicial Code as amended by the Act of February 13, 1925.

B

DATES OF DECREE AND APPLICATION FOR APPEAL

The order of dismissal was entered July 1, 1935 (R. —), and the final decree sought to be reviewed was entered August 28th, 1935 (R. —). Appeal was allowed August 28th, 1935 (R. —).

Extension of time was granted for docketing the case with the Clerk of this Court until Dec. 31, 1935 (R. —).

The case was docketed in this Court Dec 27, 1935.

C

NATURE OF THE CASE

This cause was instituted by petition brought by the United States of America, appellant herein, for an injunction to restrain and prevent the appellee, a common carrier by railroad, from transporting in interstate commerce articles and commodities in violation of Section 1, par. 8, of the Interstate Commerce Act, 34 Stat. 584 (U. S. C., Title 49, Sec. 1 (8)), the provision of which makes it unlaw-

ful for any railroad to transport in interstate commerce any article or commodity manufactured, mined, or produced by it or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect (except timber and the manufactured products thereof and such articles or commodities as may be necessary and intended for its use as a common carrier) (R. —).

The District Court filed its opinion, findings of fact and conclusions of law July 1, 1935, holding that the evidence failed to establish that appellee has such interest in the articles and commodities transported by it as to make the transportation unlawful under the statute.

D

CASES SUSTAINING JURISDICTION

The following decisions are believed to sustain the jurisdiction of this Court:

Interstate Commerce Commission v. *Baird*, 194 U. S. 25.

Swift & Company v. *United States*, 276 U. S. 311.

United States v. *California Cooperative Canneries*, 279 U. S. 553.

United States v. *Reading Co.*, 253 U. S. 26.

United States v. *Chicago North Shore and Milwaukee Ry. Co.*, 288 U. S. 1.

Respectfully submitted.

STANLEY REED,
Solicitor General.
JOHN DICKINSON,
Assistant Attorney General.
CARL MCFARLAND,
ELMER B. COLLINS,
Special Assistants to the Attorney General.
BURT L. SMELKER,
Attorney, Interstate Commerce Commission.

AUGUST 28th, 1935.

U. S. GOVERNMENT PRINTING OFFICE: 1935